(3)

cf 1001

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

WRIT PETITION No. 799 OF 2003

PETITIONER

Sudarshan Karsh, aged about 31 years, S/o Shri Sriram Karsh, resident of village Machida, Post Padigaon, District Raigarh (Chhattisgarh)

Versus

RESPONDENTS

1. State of Chhattisgarh, through the Secretary, Department of Panchayat, DKS Building, Mantralaya,Raipur (Chhattisgarh)
2. Collector (Panchayat), Raigarh, District Raigarh (Chhattisgarh)
3. Sub Divisional Officer (Revenue), District Raigarh (Chhattisgarh)
4. Janpad Panchayat, Pusaur through its Chief Executive Officer, Pusaur, district Raigarh (Chhattisgarh)
5. Gram Panchayat, Turanga, Block Pusaur, District Raigarh (Chhattisgarh)

P. R. No. 6191/03
Presented by Shri Manoharkar Patel
dated 26.02.03

25/02/03

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

(36)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP-799/03 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21.9.2006

Shri S.R.J. Jaiswal, counsel for the petitioner.

Shri Arun Sao, Government Advocate for the State/ respondents 1, 2 and 3.

Shri Sunil Sahu, counsel for respondent No.4.

None for respondent No.5.

Heard finally with the consent of the parties.

Order dictated as follows:

ORAL ORDER
(21.9.2006)

The petitioner, who was initially appointed as a Panchayat Karmi of Gram Panchayat, Turanga, District-Raigarh and was later on declared as a Secretary of the aforesaid Gram Panchayat under Section 69 (1) of the M.P. (C.G.) Panchayat Raj Adhiniyam, 1993, has challenged the legality of order dated 30.1.2003 (Annexure P-9), by which, his appointment/declaration for the post of Secretary of the said Gram Panchyat has been cancelled by respondent No.2, Collector, Raigarh, District-Raigarh.

The submission of learned counsel for the petitioner is that since the appointment of the petitioner was made under the Pachayat Karmi Yojna and further he was declared as the Secretary of the Gram Panchayat under Section 69 (1) of the said Act, his services were governed by the provisions of M.P.(C.G) Panchayat Service (Discipline and Appeal) Rules,

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ...WP No. 799/03... **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

1999. His further submission is that the Collector, without following the procedure laid down under Rule 7 of the aforesaid Rules, passed the impugned order, which cannot be sustained in the eyes of law.

Referring to the decision rendered in the matter of ***Prakash Chandra Patel Vs. State of Chhattisgarh and others, reported in 2004 Law Times (C.G.) Pg.142*** and the Division Bench decision of this Court, passed in ***W.P.No. 1656/2004*** and another decision passed by this Court in ***W.P.No.2356/2004***, learned counsel for the petitioner submits that the case of the petitioner is squarely covered under the aforesaid decisions and the order impugned deserves to be quashed. He also refers to the memo dated 8.10.2001, issued by the State of Chhattisgarh to all the Collectors and all the Chief Executive Officers of District Panchayats, in which, it has been clearly stated that the Rules of 1999 are applicable in the cases of Panchayat Karmis and any disciplinary action against them cannot be taken without following the procedures laid down under the said Rules. A copy of this memo is filed as Annexure P-2.

Learned counsels for the State as well as counsel for the Chief Executive Officer also agree that the case of the petitioner is covered by the above decisions of this Court.

In the facts and circumstances of the case, the petition is allowed. It is disposed of on the terms of the orders passed in

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 799 /03 **सन्** /200

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the above writ petitions. The impugned order dated 30.1.2003(Annexure P-1) passed by the Collector is hereby quashed. The petitioner shall be entitled to all the benefits in consequence of quashing of the impugned order.

However, if so required, the State authorities shall be free to initiate appropriate proceedings under the law against the petitioner, which shall be governed by the provisions of the Rules referred to above.

There shall be no order as to cost.

Sd/-
Sunil Kumar Sinha
Judge

sunita

(पीछे देखिये)

26.9.06